

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
CLERK'S OFFICE
CIVIL ACTION NO. 03-30298 - MAP
OCT 15 2004

JAMES TULGAN,

Plaintiff

V

BERKSHIRE ARMORED CAR,
SERVICES CO., INC., BERKSHIRE
ARMORED CAR SERVICES, CO., INC
PROFIT SHARING PLAN,
GERARD S. REDER AND
JACQUELINE POWERS,
Defendants

DEFENDANTS' MOTION
TO AMEND ANSWER

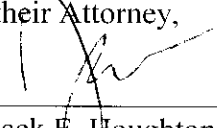
NOW comes the Defendants, Berkshire Armored Car, Services Co., Inc., Berkshire Armored Car Services Co., Inc. Profit Sharing Plan, and Gerard S. Reder, in the above-entitled matter, and moves pursuant to Rule 15 (a) of the Federal Rules of Civil Procedure, to AMEND their Answer to the Complaint of James Tulgan, so as to add the following Defense:

ELEVENTH DEFENSE

The Plaintiff's claims against the Defendants were partially or entirely based on false information/documents provided by the Plaintiff to the Defendants for his salary and/or compensation upon which the Plaintiff's profit sharing benefits were determined. In doing so, the Plaintiff violated federal law, as well as rules and regulations of the Defendants. As a result, the Plaintiff is not entitled to any damages against the Defendants for Counts 1 - 4, based on his wrongful and/or illegal conduct.

Dated: October 14, 2004

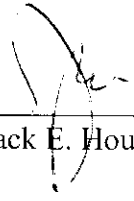
Berkshire Armored Car, Services, Co., Inc.,
Berkshire Armored Car Services Co., Inc. Profit
Sharing Plan, Gerard S. Reder,
By their Attorney,



Jack E. Houghton, Jr.
78 Bartlett Avenue
Pittsfield, MA 01201
(413) 447-7385
B.B.O. # 241040

CERTIFICATE OF SERVICE

I, Jack E. Houghton, Jr. hereby certify that I have on this 14th day of October, 2004, served the within Defendant Berkshire Armored Car Services Co., Inc.'s Answer, Counterclaim, and Demand For Jury Trial, by mailing same to Robert L. Leonard, Esq., Doherty Wallace Pillsbury and Murphy, One Monarch Place, Suite 1900, Springfield, MA 01144, by first class mail, postage prepaid.



Jack E. Houghton, Jr.